

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

John H. Benge, Jr.,)

Petitioner)

v.)

Rick Kearney, Warden)

Sussex Correctional)

Institution And)

Carl C. Danberg, Esq.,)

Attorney General Of The)

State of Delaware,)

Respondents)

Civil Action No. 05-0550(GMS)



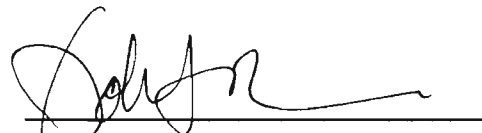
**RULE 25(d)(1) MOTION FOR SUBSTITUTION OF
PARTY RESPONDENT AND TO AMEND CAPTION**

COMES NOW, John H. Benge, Jr. ("Petitioner"), *pro se*, and pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, moves for substitution of Michael DeLoy, Acting Warden, Sussex Correctional Institution, as a party respondent in the above-captioned action in the place and stead of Rick Kearney and to amend the caption to henceforth read as follows:

| | | |
|-----------------------------|---|-------------------------------|
| John H. Benge, Jr., |) | |
| |) | |
| Petitioner |) | |
| |) | Civil Action No. 05-0550(GMS) |
| v. |) | |
| |) | |
| Rick Kearney, Acting Warden |) | |
| Sussex Correctional |) | |
| Institution And |) | |
| Joseph R. Biden, III Esq., |) | |
| Attorney General Of The |) | |
| State of Delaware, |) | |
| |) | |
| Respondents |) | |

The grounds for this motion are that that Michael DeLoy has succeeded Rick Kearney as Acting Warden of Sussex Correctional Institution and an order of substitution of party is therefore appropriate and the better practice under Rule 25 (d)(1).

Date: March 2, 2007



John H. Benge, Jr.
P.O. Box 500
Georgetown, DE 19947

CERTIFICATE OF SERVICE

The undersigned hereby certifies that two copies of the attached motion were served on March 2, 2007 by depositing the same in the prisoner mail dropbox at Sussex Correctional Institution, first class mail, postage prepaid and addressed to:

Thomas E. Brown, Esq.
Department of Justice
820 North French Street
Wilmington, DE 19801

I hereby certify under penalty of the laws of the United States of America that the foregoing is true and correct.

Executed on March 2, 2007

A handwritten signature in black ink, appearing to read "Thomas E. Brown", is written over a horizontal line.